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SUBJECT: WHITHER IRAQI HYDROCARBONS FRAMEWORK?

REF: BAGHDAD 3038

Classified By: CETI/EMIN Ambassador Charles Ries, reasons 1.4 b and d

¶1. (C) Summary: Deputy Prime Minister Barham Salih told Charge and EMIN September 13 that implication of that day's New York Times article on the hydrocarbon law ("Compromise on Oil Law Seems to be Collapsing") was wrong. In fact, he said, discussion the previous day of the hydrocarbon framework law and related revenue sharing proposal by the five leaders' deputies ("Sherpas") was "overall positive." "Even the Sunnis" were constructive, he said. Thus far, there is agreement to return to the February version of the Framework Law, exploration of a percentage limit on national investments as a solution to the Revenue Sharing law and consideration of protecting the Framework Law with a super-majority amendment procedure. End Summary.

¶2. (C) In a meeting with Charge and EMIN September 13, Deputy Prime Minister Barham Salih admitted that Minister of Oil Shahristani and KRG Minister for Hydrocarbons Ashti had gotten into a "public shouting match" recently about whether or not KRG exploration contracts are legal in the absence of a federal law. He pointed to Shahristani as the most likely official to have backgrounded the Times' bureau chief with the thrust of the article September 13 that discussions on that the Framework law appear to be "collapsing." He recalled that early last winter the parties had been very close to agreement and Salih himself had been about to travel to Erbil to present a final offer to Massood Barzani when Shahristani had similarly "kicked sand" into the gears to prevent a deal. Similarly, when this spring the Shura Council considered the elements of the law (that had been unanimously agreed by the Council of Ministers on February 23) they were "instructed" to introduce the elements that set off the Kurds later when made public in early July. Salih said there is a "school of thought" that the Minister of Oil "never wanted" the law and is trying various stratagems to kill it. Salih said he planned to speak to Prime Minister Maliki and the President Talibani later in the day to get them to "squeeze" Shahristani.

¶3. (C) During the previous day's discussion of hydrocarbons, Salih said there was discussion of three distinct issues. On the framework law itself, there was unanimous agreement that the five should support adoption of the original text agreed by the Council of Ministers February 23 (and thus throw out the July 3 and July 6 texts, which were partially amended to reflect advice by the Shura Council).

¶4. (C) With respect to the revenue sharing law, the Maliki's UIA and the Kurdish parties almost had closure on their main point of disagreement: how the budget allocation for "national projects" would be determined. (Such allocations, along with the government's "sovereign obligations" would be taken out before oil revenue was to be shared by formula with the regions.) Negotiations are narrowing around the

percentage limit and Barham Salih thought it likely the national projects allocation would settle around the 5 percent mark that had been discussed previously. The Sunnis said they were not yet ready to engage on this law and wanted to review a final draft reflecting Shia-Kurt agreement before taking a position.

15. (C) The final issue discussed by the Sherpas was the constitutional consistency of the law (an aspect where feelings have been rubbed raw by the public debate between Shahristani and Ashti). Here the debate centers around where the federal law falls with respect to the constitutional provision that all powers not explicitly granted to the federal government remain the exclusive province of the regions. The Shia want a clear statement of the supremacy of the federal law in hydrocarbons. Salih said that the Sherpas were exploring various formulas for squaring the circle. One idea discussed was to have a provision to state that "all" laws need to be consistent with the principles of the Hydrocarbon Framework law, along with a super-majority amendment provision (which would have the effect of making the Framework law almost constitutional in nature).

16. (C) Salih said deputies will return to working on these laws (as well as debaathification and provincial powers reported septel) at a meeting on Tuesday, September 18. He mused that perhaps the New York Times article in the end would be "helpful" in sustaining pressure on the leaders to break through to agreement.

17. (C) Comment: The New York Times article seems overly negative, although it is clear the hydrocarbons package is still very much caught in the vortex of party and personality politics. Meanwhile, the international oil companies are

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knocking at Iraq's doors, which may have positive as well as negative effects. What will be critical to getting the hydrocarbons package to and through the Council of Representatives will be the position of the IIP/Tawafuq bloc, which has been skeptical thus far but without burning bridges. The prospects for the package also are tied up with the broader political maneuvering. The (temporary?) return of the Cabinet of ex-Planning Minister Baban on September 12 further complicates the hydrocarbons scene, since he is forthrightly against involvement of any international oil companies in Iraqi exploration, but as Baban's return is a challenge to Hashimi, it may inspire the VP to get off the fence. For his part, Minister of Oil Shahristani soon may be "home alone," as he looks set to lose all his deputy ministers (septel) and the head of the State Oil Marketing Organization. He is also facing the prospect of sharp criticism for kerosene shortages this winter and for failure to secure needed diesel fuel from Kuwait. We have an appointment to see the Minister of Oil Shahristani September 14 and will see what he has to say.

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